

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

950 MISC.CIVIL APPLICATION NO.288 OF 2019

SONALI AMAR NANKAR
VERSUS
AMAR S/O VASANTRAO NANKAR

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Advocate for Applicant : Mr. Patil Ujwal Subhash
Advocate for Respondent : Mr.K M Nagarkar h/f S S
Kulkarni

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CORAM : V.K. JADHAV, J.
Dated : January 14, 2021

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PER COURT :-

1. The learned counsel for the applicant-wife submits that the applicant at present resides with her parents at Karmud, Tq. Chalisgaon, District Jalgaon and the petition No.A-91 of 2019 preferred by the respondent-husband for a decree of divorce is pending before the Family Court, at Aurangabad. Learned counsel submits that, it is difficult for the applicant-wife to travel a distance of 100 kilometers to attend the Court dates at Aurangabad. The applicant-wife has also initiated the proceedings under section 125 of Cr.P.C. for maintenance at Chalisgaon and also the proceedings under the provisions of Protection of Women from

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Domestic Violence Act, 2005 at Chalisgaon. In addition to that the applicant has also filed the marriage petition under section 9 for restitution of conjugal rights before the Civil Judge S.D. Chalisgaon and the same is still pending. Even, the respondent-husband appeared in all those proceedings.

2. Learned counsel for respondent-husband has strongly resisted the application on the ground that the applicant-wife can attend the court dates at Aurangabad. The learned counsel submits that two children are residing with the respondent-husband. There is no inconvenience for the applicant-wife to attend the court dates at Aurangabad.

3. In the following cases, the supreme court as well as the various High Courts have reiterated that in the matrimonial proceedings the convenience of wife would be a paramount consideration.

- i) Sumita Singh vs. Kumar Sanjay and another, reported in AIR 2002 SC 396;
- ii) Mahadevi Gopal Mehetre vs. Gopal Prabhakar Mehetre, reported in 2015 (5) AIR Bom R 250;

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- iii) Mona Aresh Goel vs. Aresh Satya Goel, reported in AIR 2000 SC 3512(1);
- iv) Ravinder Kaur vs. Hitinder Singh, reported in AIR 2000 SC 3403(2);
- v) Renu Gautam vs. Vinod Gautam, reported in AIR 2000 SC 3405 (1);
- vi) Anjali Ashok Sadhwani vs. Ashok Kishichand Sadhwani, reported in AIR 2009 SC 1374;
- vii) Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap, reported in AIR 2016 SC 3584;
- viii) Reena Mehra vs. Rohit Rai Mehra and another, reported in AIR 2003 SC 1002;
- ix) Rakhi Banerjee vs. Subhankar Mukherjee, reported in AIR 2009 SC 928;
- x) T. Gayatri Devi (Smt) vs. Tallepaneni Sreekanth (Dr.), reported in 2013 (5) All.M.R. 918;
- xi) Anita Balkrishna Barge vs. Balkrishna Sopan Barge, reported in 2010 (6) All M.R. 685;
- xii) Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil, reported in 2014 (1) AIR Bom R. 450;
- xiii) Kalpana Pankaj Rozatkar vs. Pankaj Supadu Rozatkar, reported in 2013 (5) AIR Bom R 51;
- xiv) Sayali Swapnil Kuber vs. Swapnil Harischandra Kuber, reported in 2014 (1) Mh.L.J. 584;

4. In the instant case, the applicant-wife is residing with her parents at village Karmud, Tq. Chalisgaon, District Jalgaon. The applicant has to travel near about

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100 kilometers to attend the court dates at Aurangabad. Furthermore, the applicant-wife has also filed HMP petition no.179 of 2019 for restitution of conjugal rights before the Civil Judge S.D. at Chalisgaon and the said petition is still pending. Thus, the divorce petition filed by the respondent-husband can be transferred to the civil Judge S.D., Chalisgaon to avoid the conflicting views so also looking to the convenience of the applicant-wife. Hence, I proceed to pass the following order.

ORDER

- I. Misc. Civil Application is hereby allowed in terms of prayer clause 'B'.
- II. Misc. Civil Application accordingly disposed off.

(V.K. JADHAV, J.)

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